

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6765

BILL NUMBER: SB 340

NOTE PREPARED: Jan 3, 2012

BILL AMENDED:

SUBJECT: Physical Plant Requirements for Abortion Clinics.

FIRST AUTHOR: Sen. Banks

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: This bill sets forth certain safety and health requirements that an abortion clinic must meet and voids a provision of the ISDH abortion clinic licensure rule concerning physical plant requirements. The bill specifies that existing licensed abortion clinics must meet the safety and health requirements. The bill also requires the Indiana State Department of Health (ISDH) to inspect an abortion clinic at least one time per year.

The bill provides a definition of “abortion-inducing drug” and revises the definition of abortion clinic to include the provision of abortion-inducing drugs.

Effective Date: July 1, 2012.

Explanation of State Expenditures: *Physical Plant Requirements:* The bill specifies physical plant requirements that a licensed abortion clinic must meet. It also eliminates a provision in the current ISDH rules that exempts clinics operating before July 1, 2006, from specific physical plant requirements. Those clinics which do not meet physical plant specifications by July 1, 2012, may require additional inspections by the Department to ascertain noncompliance prior to license revocation.

Additionally, each party that has a license revoked due to noncompliance would be entitled to the due process procedure required by the Administrative Orders and Procedures Act. Each party is entitled to an administrative hearing and an appeal panel if the decision is appealed. A decision by the appeals panel may then be reviewed by the judicial system. The Department has estimated an additional one-time expense of up to \$144,000 for the administrative due process associated with the license revocation of the currently operating clinics. This estimate assumes that each of the nine licensed abortion clinics would request an

administrative hearing and subsequently appeal a decision. The Department's cost estimate is based on the necessity of hiring outside counsel to conduct up to nine administrative hearings in a condensed period of time. Outside counsel cost is estimated at \$200 per hour with 80 hours required for each administrative hearing and appeal.

Annual Inspection Requirement: The fiscal impact of the annual survey provision would depend upon the number of clinics that meet the physical plant requirements specified in the bill. If nine clinics continue to maintain their licensure, the ISDH would have an increase in survey workloads as explained below. If some of the clinics cannot meet the physical plant requirements, the ISDH may have additional inspections to ascertain noncompliance prior to license revocation and then a subsequent decrease in survey workloads. The ISDH reports that adding a requirement for annual surveys of the nine state abortion clinics would require a minimum of 25 days of surveyor time plus administrative time associated with scheduling and record keeping.

ISDH reports that due to the increase in the number of acute care facilities, the number of survey staff is currently operating above capacity and that an increase in survey hours would result in other surveys being delayed or would require additional staff. Licensure of abortion clinics is a state-operated program conducted with 100% state general funds, while hospital and ambulatory outpatient surgical center acute care survey inspections are conducted in concert with federal Medicare/Medicaid certification surveys qualifying those survey expenses for 50% federal administrative matching funds. Shifting resources to add 25 days of surveyor time to 100% state-funded program surveys would effectively remove resources for 50 days of surveyor time from acute care surveys that qualify for federal matching funds.

Additional Inspection Information: Current ISDH rules filed in 2006 for licensure of abortion clinics require a licensing inspection once every two years. Mirroring other health facility licensure rules, the ISDH may accept an accreditation or certification survey under certain conditions, requiring the ISDH to conduct a survey at a minimum of once every four years. Currently, all of the surveys of the abortion clinics in the state are conducted by ISDH acute care survey staff.

Explanation of State Revenues: *Annual Inspection Requirement:* Because the ISDH reports that survey staff time is at capacity, assigning staff to surveys conducted with 100% state general funds would result in a decrease in federal funding associated with the matching funds available for Medicaid/ Medicare acute care certification activities if all existing licensed clinics maintain their licensure status.

Physical Plant Requirements: The bill may reduce the amount of fees collected after July 1, 2011, for abortion clinic licensure to the extent that any of the currently operating clinics cannot meet the physical plant requirements specified in the statute and regulations.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: ISDH.

Local Agencies Affected:

Information Sources: ISDH.

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